

REMARKS

Reconsideration of the application and entry of the amendments above are respectfully requested.

Claims 1-11 were pending. Claims 1-5 were rejected. Claims 6-11 were objected to. Claims 1, 4 and 6 have been amended as discussed below. Claims 2, 3 and 5 have been canceled. Claims 1, 4 and 6 to 11 are pending in the present application.

Applicants have amended Claims 1, 4 and 6 of the instant invention as follows: Claim 1 has been amended to specifically list the organic bases and solvents in which this reaction can be run by adding three of the organic bases from Claim 2 (NBu<sub>3</sub>, ME<sub>2</sub>NBU, and Me<sub>2</sub>NBn) and by adding three of the solvents systems from Claim 3 (MeCN, MeCN/water and DMF, water). Claim 4 has been amended to include the specific acetonitrile solvent from Claim 5. Applicants have amended Claim 6 by writing Claim 6 in independent format and adding the "in an organic solvent system" limitation of Claim 4.

No new matter is being added to the above captioned application by the amendment of Claims 1, 4 and 6.

**REJECTION UNDER 35 USC SECTION 102(e)**  
**FOR LACK OF NOVELTY**

The Examiner stated that Claims 1-5, presently Claims 1 and 4, are rejected under 35 USC 102(e) as being anticipated by USP 6,649,624 to Fukami et al. The Examiner indicated that Fukami teaches a method of producing 3-oxo-N-(5-phenyl-2-pyrazinyl)-spiro[isobenzofuran-1(3H),4'-piperidine]-1'-carboxamide, which corresponds to the instantly recited compound of formula I. The Examiner further stated that the compound is produced by coupling a compound of formula II with a compound of formula III in the presence of an organic base, wherein the base is triethylamine, in an inert solvent, wherein the solvent is tetrahydrofuran, dimethylformamide, or dimethyl sulfoxide. The Examiner also stated that the compound of formula III may be prepared according to the scheme set forth in col. 24, lines 20-55.

As amended, Claim 1 is directed to the process wherein the organic base is selected from the group consisting of:  $\text{NBu}_3$ ,  $\text{Me}_2\text{NBu}$  and  $\text{Me}_2\text{NBn}$ , and the solvent system is selected from the group consisting of: MeCN, MeCN/water and DMF/water. Claim 4, which depends from Claim 1, is directed to the process of Claim 1 wherein the solvent system is MeCN. Fukami does not teach or disclose a process run under these conditions.

In view of the amendments and remarks above, Applicants respectfully request that the rejection of Claims 1-5, presently Claims 1 and 4, be withdrawn and that Claims 1 and 4 be allowed.

#### **OBJECTION TO CLAIMS 6-11**

The Examiner stated that Claims 6-11 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As amended, base Claim 6 is in independent form, and Claims 7-11 depend directly or indirectly from Claim 6, and thereby incorporate the amendments to Claim 6.

In view of the amendments and remarks above, Applicants respectfully request that the objection to Claims 6-11 be withdrawn and that Claims 6-11 be allowed.

Applicants respectfully contend that the application is allowable, and a favorable response from the Examiner is earnestly solicited.

Respectfully submitted,

By

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